

EXHIBIT ~~10~~ 11
DATE 1/23/09
HB

January 12, 2009

61st Montana Legislature
Joint Long-Range Planning Committee
Representative Dave Kasten *in lieu of email*
Senator Greg Barkus
Representative Dennis Getz
Representative Walter McNutt
Representative Jon Sesso
Senator John Brueggeman
Senator Mike Cooney
Senator Carol Williams

Dear Legislators:

I am writing this email in response to a request for TSEP funds by the Town of Broadview. In brief, the town is looking to access a water aquifer in our area, eight miles west of Broadview, as their new, permanent domestic and irrigation water supply. As farmers and ranchers in the area, we are very concerned about the long-term sustainability of the project and the effect it will have on our ability to maintain our agriculture livelihoods.

We provided a letter, dated September 12, 2008, to the TSEP granting agency expressing our objections. We acquired signatures from 28 resident and non-resident landowners as well as 24 Town of Broadview residents. The granting agency, however, ranked Broadview's request as #23 and, therefore, it falls above the funding line. Such grants are only allowed 30 minutes of testimony on Tuesday, January 13th. Because of the limited time to provide testimony in person and realizing that TSEP funding of this project will most likely occur, I did want to heighten your awareness, as lawmakers, of the challenges Montanan's are facing in protecting our water rights.

Our concerns are straightforward –

- 1) Protecting and enforcing our senior water rights – We need to know with certainty that if water levels are affected, we have both the ability and legal support to obtain reductions in flow, even to a municipality. In a recent report to the 61st Montana Legislature, "Water – Montana's Treasure" by the Water Policy Interim Committee, the findings for Water Use Enforcement (Page 5) indicate that "there are concerns that senior water rights are not being protected." The report goes on to state that "even though Montana does not constitutionally or statutorily prioritize water rights, a defacto priority for domestic or municipal use may exist." (Page 39) As landowners trying to supply water to cattle and maintain a living off the land, this is a major concern of the proposed project.
- 2) Times of water stress – Water is fast becoming the most treasured resource of our planet. As you know, our area, as well as many others in Montana, is recovering from sustained years of drought experienced at the beginning of this decade. Marks of its devastation include hauling water to livestock, redrilling of wells, drained reservoirs, and dry springs. All of these situations have not

fully recovered and continue today. This area does not have abundant ground or surface water and, in fact, does not support any type of agricultural irrigation. During these drought years, precipitation levels were many times approaching half of the annual average and situations like these can quickly jeopardize water levels. Science cannot predict these events.

- 3) Cost to protect water rights – Although we are finding other groups facing the same challenges, the time and money spent to understand the risks to our livelihood are mounting. We are farmers and ranchers, not experts in an area where development and paid professionals are the norm. To start, we anticipate time and costs to evaluate studies, including hydro geological evaluations and legal opinions as well as equipment to monitor surrounding wells and water sources. (The proposal has no long-term monitoring to determine baseline information or effects on senior water rights.) These are additional costs to an industry with already tight margins.

Although a letter like this can, in no way, address and discuss all the relevant issues of this project, I hope it has given you a better understanding of the water rights concerns mounting in Montana. Your report "Water – Montana's Treasure" is a great first start in addressing critical water use and management in our great state. We hope that the recommendations and findings of projects like these would be incorporated, at all levels of government, including the funding of municipal water systems through the TSEP grant program, and that agriculture, our state's main economic force, is given the authority and support of government to maintain our full water rights.

In closing, thank you for your time and efforts in continuing to address these critical issues. If you have any questions, please do not hesitate to call (406-667-2242) or email me.

schott@itstriangle.com

Sincerely,

Karen

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Broadview, MT 59015

Cc: Senator Robert Story
Representative David Howard
Representative Krayton Kerns
Senator Taylor Brown